

Assembly Bill No. 634

CHAPTER 407

An act to amend Sections 6025.5 and 6027.1 of, and to add and repeal Section 6025.4 of, the Food and Agricultural Code, relating to vertebrate pests.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 634, Huber. Vertebrate pest control: carbon monoxide.

Existing law regulates pesticide use and generally provides that, except for specified provisions that are within the jurisdiction of the Secretary of Food and Agriculture, the enforcement of these provisions is the duty of the Director of Pesticide Regulation.

Existing law also requires the Secretary of Food and Agriculture to establish and administer a research program to control vertebrate pests, as defined, including the investigation of effective and economical alternative materials for the control of vertebrate pests. Existing law limits the expenditure of funds for this research to specified activities, including educational outreach regarding vertebrate pest control methods. Under existing law, a person is prohibited from killing an animal by using carbon monoxide gas.

This bill would authorize the use of carbon monoxide for the control of burrowing rodent pests, only until January 1, 2018, and only if the carbon monoxide delivery device is permanently affixed with a specified warning label in plain view of the operator, subject to specified provisions governing (1) the protection of endangered species, (2) the mode of taking a fur-bearing animal, and (3) pest control operations and the use of agricultural chemicals, as specified.

The bill would revise the provision requiring the Secretary of Food and Agriculture to establish a research program to control vertebrate pests, including the investigation of alternative materials, as described above, to specifically include the use of carbon monoxide to control burrowing rodent pests. The bill would make a similar change to the provision authorizing the expenditure of funds for educational outreach. The bill would also include a statement of legislative intent.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to authorize the Department of Food and Agriculture, with the assistance of the Department

of Fish and Game, to assist landowners with the control of burrowing rodent pests using methods that may involve the use of carbon monoxide. The authorization is for five years to allow the departments, using existing resources, to develop educational materials on the proper use of carbon monoxide delivery systems and to consider recommendations for the extension of the authorization or other appropriate legislative or regulatory changes for the use of carbon monoxide at the conclusion of the term. The existing Vertebrate Pest Control Research Advisory Committee is the proper place for research and educational materials to be developed.

SEC. 2. Section 6025.4 is added to the Food and Agricultural Code, to read:

6025.4. (a) Notwithstanding Section 597u of the Penal Code, carbon monoxide may be used for the control of burrowing rodent pests, provided the following conditions are met:

(1) The carbon monoxide delivery device shall be permanently affixed with a warning label in plain view of the operator that includes, at a minimum, the following information:

DANGER: Carbon monoxide is a poisonous gas that is odorless and colorless. Exposure to carbon monoxide can kill within minutes. Never use in structures inhabited by humans or livestock. The device must be used in accordance with all existing laws and regulations including Chapter 1.5 (commencing with Section 2050) of Division 3 of, known as the California Endangered Species Act, and Sections 4002 and 4003 of, the Fish and Game Code.

(2) The use of carbon monoxide is subject to the requirements of Chapter 1.5 (commencing with Section 2050) of Division 3 of, known as the California Endangered Species Act, and Sections 4002 and 4003 of, the Fish and Game Code, and the requirements of Division 6 (commencing with Section 11401) and Division 7 (commencing with Section 12500).

(b) This section shall become inoperative on January 1, 2018, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 6025.5 of the Food and Agricultural Code is amended to read:

6025.5. (a) The secretary shall establish and administer a research program to control vertebrate pests that pose a significant threat to the welfare of the state's agricultural economy, infrastructure, and the public.

(b) The specific purposes of the program include all of the following:

(1) The investigation of effective and economical alternative materials for the control of vertebrate pests, including carbon monoxide to control burrowing rodent pests.

(2) The solicitation and consideration of research proposals for alternative humane methods of control.

(3) The continuation of current vertebrate pest control product registration at the state level until alternative products are developed that prove to be effective and economical.

(4) The funding of research for the development of scientific data to fulfill registration requirements.

(5) Cooperation with the United States Department of Agriculture in funding research programs to maintain, develop, and register vertebrate pest control materials used in this state.

SEC. 4. Section 6027.1 of the Food and Agricultural Code is amended to read:

6027.1. Expenditure of funds pursuant to this article shall be limited to the following:

(a) Reasonable administrative and operational expenses of the committee and the department, subject to the recommendation of an annual budget by the committee and approval by the secretary.

(b) Federal and state regulatory fees for the continued registration of vertebrate pest control materials and the registration of new materials.

(c) Basic and applied research as described in Section 6025.3.

(d) Educational outreach on the subject of vertebrate pest control methods, including, but not limited to, the safe use of carbon monoxide to control burrowing rodent pests.